

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

Mr. Charles Smith,

Plaintiff,

- against -

- 1) Correctional Officer Mahar,
2) Correctional Officer Sgt. Parkman,
3) Correctional Officer Lt. Sullivan,
4) O.R.C. Counselor Yannone (Civilian),
5) John Doe (Official who responded to the
double bunk grievance ; complaint),
Defendants.

CASE NUMBER

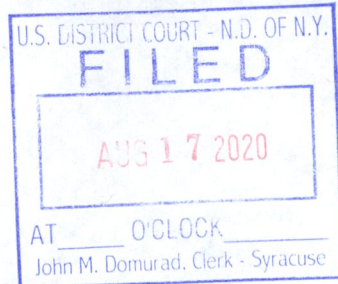
9:20-CV-0659

(DNH/CFH)

AN AMENDED COMPLAINT

TO BE HEARD : REVIEWED BEFORE THE HONORABLE D.N.HURD

RESPONSE TO SUA SPONTA DISMISSALS WITHOUT PREJUDICE



Submitted by
Charles Smith
Greene C.F.
165 Plank Rd.
Coxsackie, N.Y.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Mr. Charles Smith (96A6765)
 All other names by which
 you have been known: Charles Smith, J.
 ID Number _____
 Current Institution Green Correctional Facility
 Address 165 Plank Rd. (P.O. Box 75)
Coxsack New York 12051-0975
 City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1 & Defendant No. 2

Name Mr. Mahar (Def. #1) / Area Supervisor
 Job or Title (if known) Corrections Officer Sgt. Parkman (Def. #2)
 Shield Number Mahar is a veteran (long time) Correctional officer
 Employer I am unaware of none of the officer's shield numbers
 Address The NY Dept of Corrections & Community Supervision (DOCCS)
Haraman Square Campus Bldg. 1220 Washington Ave
Albany N.Y. 12224
 City State Zip Code

☒ Individual capacity & ☒ Official capacity due to Request for Injunction and pendent matter Jurisdiction which allows suits in official Capacities

Defendant No. 3

Name Lt. Sullivan
 Job or Title (if known) Disciplinary hearing officer who ordered me back to
 Shield Number I am unaware of his shield number Double Bunking
 Employer DOCCS
 Address Haraman State Campus Bldg. 1220 Washington Ave
Albany New York 12224
 City State Zip Code

☒ Individual capacity & ☒ Official capacity due to request for Injunction relief and pendent matter Jurisdiction which both allows suit through v/s 1983 against state officials/state Agencies

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

Ms./Mrs. YANNONE

Offender's Rehabilitating Counselor (O.R.C.)

N/A

I'm Not SURE (?) My GUESS is The DOCCS

Harriman State Campus Bldg. 1220 Washington Ave

Albany

New York

12224

Zip Code

☒ Individual capacity☒ Official capacity for purposes of injunctive relief and relief pursuant to pending matter jurisdiction allowing suit in official capacities and against government agencies.

Defendant No. 5

Name

Job or Title (if known)

Shield Number

Employer

Address

John Doe/Unknown

SHU Supervisor (The individual who answer my Double Booking Covid-19)

Corrections official / ~~Prisoner~~

N/A

The New York Government / One of its agencies (Presumably DOCCS)

Harriman State Campus Bldg. 1220 Washington Ave

Albany

New York

12224

Zip Code

☒ Individual capacity☒ Official capacity for purposes of injunctive relief and the application of pending matter jurisdiction to sue this and all defendants in their official capacities

II. Basis for Jurisdiction: Both Ark. 28 USC § 1331 & 28 USC § 1367 / And Art. 42 USC § 2000e (Title VII of Fed. Civil Rights Act)

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

Other Jurisdictional basis I'm bringing suit here in here is via (1) Federal Question Jurisdiction Consist of the Constitution, Statutes or Treaties of the U.S. Including any and all civil rights violations (see 28 USC §§ 1331, 1367). Pursuant to 42 USC § 1983. Pending matter Jurisdiction requests are only for purposes of torts concerning negligence in official capacity for defendant No. 3 for his action taken in the disciplinary hearing. Def. No. 1, 2 & 4 sued in both

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Such deprivations and/or violations are outlined throughout this document. Wherefore, in short, I claim that (1) my rights to be protected against racism and discrimination are violated; my right to equal protection are and were and still are being violated; (2) my rights to both liberty interest and due process are violated; my 14th Amend. Right to be free from illegal and/or unauthorized keep-lock confinement was violated; (3) my right to be protected against inmate on inmate assault was violated via negligence (the inmate who attacked me supposed to be in A-1 dorm being held on a warrant); (4) etc. — 1st, 4th, 5th, 9th, and 14th Amend. U.S. Const. (and various state constitutional violations).

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D.

Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. *In addition to the below (herein part III & D) see additional hand written pages. Nonetheless Def. No. 1 (Mahaq) Retaliated against me for filing a grievance concerning him (and thereafter - in close connection - failed to prevent a known or knowing attack upon me 4/12/20 by inmate; UNKNOWN SHU SUPERVISOR (Def. No. 5) in negligence and went about (and also in 8th amend violation), and did cause cruel & unusual punishment, and in recklessness and or total disregard to my health & safety, ordered me into double bunk preventing the possibility of social distancing, and constant 24 hour mask drop (smpts) during Covid-19 epidemic (while single occupancy cells were possible and or available to satisfy my grievance) I was forced to double cell for 25-28 days with another, Lt. Sullivan furthered this double bunk*

Def. No. 2 (Southside area supervisor) in negligence and in cruel & unusual punishment (and discrimination) - also denying me protected liberty interest to not be kept locked (4/12/20) like other inmate falsified a document to have me sent to SHU due to - Filing a Fight Report.

III.

Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain)

A Citizen confined to state prison pending a "Actual Innocence" Post conviction Application (N.Y.C.P.L. § 440.10)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

For all events occurred inside an institution known as a Cor. Fac.

B. If the events giving rise to your claim arose in an institution, describe where and when they arose *(See additional attached pages)*

within the period of over 2-3 months (approx. From March 2020 to June 2020) and at times during last year, a series of joint and or otherwise associated events occurred violating a slew of protected constitution of rights, privacy, and immunities, while I was confined to the General C.F. (both in the D-1 dorm and around the correctional facility) and as well in the segregated housing unit. I even wrote repeated letters to this courthouse complaining about various abuses at the hands of correctional staff. One of which I was shocked to see a Cor. officer choke-hold an inmate lifting him off his feet and throwing him down to the ground via unauthorized use of force just because the young inmate disturbed his unauthorized sleeping in the dorm on work hours.

C. What date and approximate time did the events giving rise to your claim(s) occur?

See attached lined paper

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attached lined paper

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

*(1) Head bruises/swellon due to the blows of the attacker
(2) Financial Injury; (3) pain and suffering; (4) mental and emotional anguish all due to the Discrimination, denial of Equal protection, and retaliation (which even includes attacks upon my mail and the free flow thereof); (5) And various injuries keep occurring concerning pocs' interfering with Legal mail and Litigative Pursuit I have with and to my criminal court of conviction; and Court of Claims/ state court mail which often gets to me upwards of 7-18 days late making it hard to sustain suit and as the litigations thereof there in; (6) also, Lights being off all day in the dorm makes you depressed and undergo other health issues. Staff makes you more anguished when you complain about the lights to which they do it deliberately to attack my emotional stability etc.*

VI. Relief Items request here as relief are to be received as well, notwithstanding the other items of relief I mention through this entire complaint and as at Place I place them

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes.

If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. *It appears that the various pocs staff are using their office/their immunity as a tool for personal wrong doing. And whether or not their actions constitutes conduct within the scope of their alleged duties - such as some ordered duty of right to turn off and keep lights off for upwards of 16 hours day or more. Therefore, such abuses as these (and others) will require - no doubt - an injunction. Therefore, I request injunctive Relief against the following and or for purposes of enforcing the following: (1) Injunction must be used requiring and adamantly enforcing corr. staff at the Grise, C.F. Facility (compound) to put all dorm lights on from ~~no~~ no earlier than 6:45 am in the morning and keep them on all day til 10:45 pm at night upon completion of the night officer's (10:45 pm count) to which lights go out for sleeping over night til morning at 6:45 am they go back on. (2) An injunction must be given against prison hearing officers of disciplinary procedures enforcing upon them (if they choose to delay hearings) the /s Rule of accrediting 1 day off of each 3 days good time done in "pre-hearing" confinement or don't delay the hearing more than 24 hours after serving the Misbehavior Report. Or don't pre-hearing confine inmate. And if they must be pre-hearing confined then they should be allowed also (like others after the hearing) 1 day off of every 3 days as well. — See additional relief papers*

CONCERNING SECTION-COD OF PART-IV

PAGE-5 of COMPLAINT

The RRD SE 19 Rev. 12/16

What date and approximate time did the events giving rise to your claims occur?
 [AND] What are the facts underlying your claims?

CONCERNING Defend. No. 5;

Approx. 2 to 3 weeks before my / the 4-12-2020 inmate-on-inmate attack on my person (to which I suffered head injuries) and on swellan, an unknown (C.R.N. John Doe / process official) both, instructed staff and circulated an interdepartmental memorandum ordering that no inmate(s) are to be double bunked (due to the inability to allow for social distancing within the specific area of the double bunk) in order to secure the safety of individual inmate's health. I.e., COVID-19 prevention procedures. — However, about April 20, 2020 (give or take) an attempt to double bunk me with another inmate occurred while I was at, this time, singled cell (i.e. placed alone) in a double bunk capacity SHU cell for maybe a week or so days before the said attempt occurred. He stayed in the cell with me for no longer than an hour amidst my verbal complaint to the near by officer about the interdepartmental memo in question that restricted the double bunking process due to the COVID-19 epidemic.

Nonetheless, immediately after the inmate's removal I quickly scribed a grievance and placed it in the 11pm to 7am shift officer's hand for mailing to the Grievance office requesting that I'd not be double bunk - due to the COVID-19 - referencing the memo in question. (C.f. Exhibit - B hereto). While the grievance was pending an unknown Supervisory SHU official (above the rank of regular officers) went about acting in conduct to both ignore the pending grievance, and override (and/or disregard) the memo in question by ordering two subordinate (lower ranking / escort officers) to escort an inmate (May 4, 2020) to my SHU cell door and tell me: "Smith! your getting a bunk to double BUNK with. — At this point I requested to see and speak with an / the area supervisor (presumably a shift 3-11 Sgt) to make him aware of the pending grievance at which point they (the escorting officers on instructions of the area supervisor) refused to speak with me and ordered his subordinates to issue me a misbehavior report. In spite of my requested resolution outlined in the grievance.

Upon issuance of the misbehavior report dated 5-4-2020 no further attempt was made to double cell me with another inmate until approx. 5-9-2020 I was forced - by the instructions of the same or other area supervisor - to pack up my SHU cell property and move out of that available (and many other available) single cell and forcibly place - via direct order and threat of the issuance of another misbehavior report -

into a double occupancy cell with another inmate. All done in violation of my 1st Amend. Right to Not simply pursue grievance or Redress, but to have such grievance remedy enforced and/or adhered to. And so further violated the 8th Amend. Cruel & Unusual punishment denying me various state active laws, rules, and/or protections (one of which concerns Regulations for COVID-19) such as the state ordered 6 feet distancing which is impossible in the size of the Greene, c.f. adjoint SHU (it's cells). This act also denied me the same equal (health)/ (safety) protection given others in the midst of the COVID-19 epidemic. See U.S. Const. Amend. 14, And see N.Y. State Court of Claims Act concerning torts. Whereby said unknown Supervisor (and ^{his} subordinates) ^{also} displayed both a total disregard to the safety of those under his care and went about reckless in doing so. Further, activating and/or attaching to it (to his conduct) the doctrine of respondent superior. (c.f., e.g., Pendent Matter Jurisdiction).

CONCERNING DEFENDANT No. 3 (@ the May 13th hearing);

There is an illegal or Discriminative (Discriminated) form of Discrimination and/or denial of equal protection that occurs at the Greene, c.f. while conducting disciplinary hearings. Whereas two inmates can be given (or having been issued) a Misbehavior report the same day (the level of a Tier Two) with similar charges equal in Penalty, of infractions occurring on the same day between the two inmates. However, officials deliberately, and/or intentionally (via Intentional torts, to encure/cause false imprisonment) upon acts of malice give each inmate the maximum sentence allowed a fair II proceeding, but one of the two inmates (subject to the same 3 for 1 days good time reduction) gets out of the SHU 4-6 days earlier than the other. I.e., Correctional officials in their deliberate malice, and intentional torts (wrongful acts) have developed a way (and so do use it in wrong doing & illegality) to "shave off days" to which inmates can obtain good-time reduction in, and out of SHU sentences.

Hear how it works. Say Lt. Sullivan tells me - on the record of the tape recorded hearing - that he, by right, don't have to start/commence the hearing until the 6th or seventh day from the date of May 7th 2020 (May 7, with is the incorrect release day of a prior SHU sentence[†] to which good-time reduction days were illegally shaved off) due to pre-hearing confinement from the 8th to the 13th of May when the hearing in question started. Accordingly, the days spent in pre-hearing confinement don't count towards good time days off (and on the good time days off don't accrue/start count until the day the hearing is complete). And therefore you can lose 2-3 days of ^{SHU} good-time reduction if a hearing official deliberately - without reason - sits around on his ass deliberately in malice, don't start the hearing until the last allowed day for it to be commenced according to direct order. — Whereby, also

* And probably around the entire state in all state prisons.

† I was suppose to be released May 4th if not for the illegal shaving off of days by their sentencing corruption

causing a favoring of one inmate (above the other) who obtained additional good-time days reduced of the sentence according to what was day (out of the 7 days to commence hearing) the hearing officer chooses to begin the hearing and/or end it.

Therefore, here in my case this act against me by Lt Sullivan both denied me equal protection and due process of the sentence process, and the privilege (the full right [and] or full privilege and liberty interest) given to other inmates. And so did so via his illegal commencement of the hearing, coupled with violating my right to a speedy process. And, See 14th Amend. U.S. Const.

In addition to such, Lt Sullivan further Violated the 8th Amend. U.S. Const. by ordering "escorting officer" to return me back to the double occupancy ~~the~~ double bunk cell in furtherance of the disregard to the filed/pending grievance and inter-departmental memo saying not to. And against state and local rules, regulations or laws ~~laws~~ implementing social distancing. And therefore allow me suit (as part of my relief requested) of punitive damages of \$30,000.00

Exhibit-8 consist of what can be viewed as some ^{sort of} pending transfer request I don't know why it was mentioned (or why would it be mentioned) by the Superintendent in a grievance concerning a matter unrelated to any issues of transfers. I.e. the grievance concerns improper situ housing. So why imply what appears also to be a subtle threat of transfer due to my acting on a protected right (to file/pursue grievances). Furthermore I'd already informed ORC. To remove the transfer request (long before this stage/final stage of the grievance occurred).

CONCERNING Defendants Nos. 1 and 2 (The 7am to 3pm Shift);

On April 12, 2020 - while leading up to the breach of contract/duty to protect - Officer Mahan* at approx. 9³⁰ pm went about in negligence or intentional tort like conduct by turning off all of the light in the D-1 Dorm. Whereby creating sufficient heavy darkness, allowed an inmate to confront me (via clock in the dark) with threats of physical bodily harm. As the result of this I suffered (somewhat minor, but severe) injuries in the form of a swollen head & severe headache due to repeated blows to my head by said inmate attacker. It so happened that I had formerly filed a "light deprivation" grievance against (concerning Mahan's conduct) prior to this April 12, 2020 incident. See Exhibit-C. He was instructed to turn and keep lights on. But he went to a higher supervisory official and cunningly ~~the~~ manipulated that official to over-ride his orders to keep lights on. So on this day - after I politely asked him to please turn the lights on and he told me to get the "Hell away" from him. I deem it so, that to allow me to get attached, and on to intentionally cause me to get injured in this manner was his form of retaliation. Mahan is the middle man who operates (along with other officers) to keep the light off around the clock keeping inmates in the dark. A form of negligence that is very hazardous.

against me for filing a grievance against him turning the lights off (a resulting event that occurs due to him often wanting to sleep throughout his shift). Violating First Amend. Rights of mine as well as 8th Amend. Rights of the United States Constitution. As well as state torts, such as the Negligent Failure to provide a safe environment for State inmates and intentional tort failing to protect in situations of inmate-on-inmate attacks. Wherby both Pendent matter Jurisdiction issues attaches as well as U.S. Constitutional Violations occurred. Otherwise Pendent Matter Jurisdiction Claim, I also seek punitive damages of \$93,000.00.

St. Parkman



At fight's end (to which I was forced to protect myself or be seriously injured by the "cloaked-by-darkness" attacker), I was then handcuffed along side my "cloaked-by-darkness" attacker as we both were carried off to secured holding rooms to be interviewed by Sgt. Parkman who conducted an investigation. After he reviewed the scene and questioned me he said to me: "well it appears that it was a mere misunderstanding so I am just going to separate you two placing you two in separate dorms without issuing disciplinary infractions/tickets." He there after was informed (by the officer he told to have the nurse check me out) that I filled out A Injury Report. Upon receipt of this document to which I stated it occurred as the result of a first hit. He then puts (Sgt Parkman) hand cuffs back on me - changing his mind (a neg on his word - and escorts me to the box/SHU. When I enquired as to: (1) why aren't I being sent back to regular Population, why to the SHU?"; (2) why my attacker is not being sent to the SHU?"; He responded with something to the effect of "well, it is what it is." He there after - apparently wrote and file a document - created a report saying that I approach said attacker in the D-1 Dorm, and for no reason at all I commenced to hitting him. Because when I had the (unreasonably delayed) disciplinary hearing on this matter this said document was produced... a falsified document. Blaming me for the cloaked-by-darkness conception constructed by (corrections officer's). I was there of discriminated against, denied equal protection, retaliated for filing/filling out injury report, and denied liberty interest protections and rights. US Const. Amend. 1, 4, 8 and 14. And the relief I seek against Parkman are punitive damages of \$150,000.00.

[SEE NEXT PAGE(S) CONCERNING
DEFENDANT # 4]

O.R.C. VANNONE/DMV. Job Application
CONSPIRATOR

Defendant No 4;

(I)

At the GREENE, C.F. (Via Way of Doccs's "Outside Clearance" Classification/Program Proceedure), The Department of Motor Vehicle branch of Government (DMV) has set up shop inside of the Greene, C.F. Compound located in or about the area of 165 Plank Road, Coxsackie N.Y. The Outside Clearance aspect attaches to them due to they being an outside agency, and, or due to outside (Non-Doccs) employees who are trainers who train inmates to become a DMV Worker and then supervise them as subsequent DMV job workers answering phones and other clerical work. Nonetheless, such determination (under these conditions) requires a full or proper due process procedure or hearing to determine eligibility for either the outside clearance aspect and or for the DMV work/job program itself. Especially more so for the 18 month training program ~~part~~ part alone, let alone the secondary part that determines whether you intend to continue phone and clerical work. — Wherefore, in my case I was denied such Liberty interests (that other inmates received but not I), and also denied the full and proper due process to determine eligibility to at least the 18 month program let alone the ~~DMV~~ DMV Job itself that follow the training program. All to which also constitutes other forms of Constitutional deprivation, such as (1) gender discrimination (I'm a male inmate to which am discriminated against ^{vs} these individuals for my potential of be allowed and or for placement inside the DMV around females ... for all I know they ~~infurtherance~~ of such denial, they probably don't want me there because of my Good looks ???); (2) I'm a dark skinned african american and the entire (more than 65-75%) of the inmates working at the Greene, C.F. Compound DMV consist of light skinned and white colored people. (3) Having a discriminatory belief and therefore, constructed policy that members of the African American Race are prone to violence and therefore are ~~ineligible~~ not eligible to work for DMV due to such nature of their crime. And therefore I was denied (above & below) Equal Protection & Due Process U.S. Const. Amend. 14

Religion of Race & gender discrimination
This part and next page

Furthermore, being denied the 18 month training Program DMV provides affects parole eligibility and as so affects my eligibility when I was denied DMV. I.e., you must prove to the Parole Board that your job qualified via learning skills in prison during your sentence duration, which also constitutes that you've become rehabilitated.* So that when you get out of prison you more likely than not, to achieve employment. This aspect (this right) was specifically denied me at the Greene, C.F. Compound when I was denied the DMV program and or it's training etc. Such cause me and is still causing me significant hard ship

(II)

I have a suspicion and or belief that the ORC (and or its counselor (s)) are also perceiving as a tool to deny me DMV. is a retaliation against me for acting upon my right to re-

* It's important to know that when the parole board sees you have not/no potential for employment upon release, than they will deny release until you obtain training.

Free therapeutic treatment such as ART (a department supervised by the very people who is denying me the DMV program). — I have proven to the DOCCS's Staff time after time that it's my Protestant Religion that keeps me behaving good but because they discriminate against my religion they do not accept that it's the only (or that it's the) means by which I'm well behaved for any program including the DMV. There is just no fair reasonable rational basis for my denial (and/or the manner in which it was done) of the DMV program.

(III)

Various time (approx. 2 or 3 attempts) I specifically sent an application to the DMV office requesting both participation in DMV program and the DMV prison inmate job. These filled out job application (sent by me to the DMV) were not responded by DMV. This lack of response by DMV constitutes a form of discrimination whereas if I was known or believed by DMV to be a light colored or Non-african american (surely without a Labeled felony that I have) then they would have answered my application them selves via specifically responding back to me. But they did not, due to what is called both Institutional Discrimination and Institutional Racism, which is a very sophisticated form of denial of Equal protection. Wherefore, ~~the~~ ORC counselor YANNONI (a Black woman) participated/participates in this form of 14th Amend. violation by constructing a device (see Exhibit A here)[†] that refuses both the right to work for/in the General, cf. compound DMV program, while at the same time helping the DMV personnel shield their discriminatory practices and never having to answer to them whereby DMV continues to go about in their institutional racism. And thereby, further, creating also what is known as unequal program access. And whether or not Yannoni constructed such device(s) discriminatory or racist, still she participated in the carrying out of such discrimination and denial of Equal protection — Bottom line is, all participants in such form of deprivation of the herein constitutional right all did in fact further violated Title VII of the federal civil rights Act (and see 42 USC § 2000e). ~~And one also Ant 42 USC §§ 1981 & 1982 violated~~ ^{Need not apply*}

Wherefore, It is further to understand that it is my Additional claim that by the above conduct I have been treated differently from others (those who do not have Violent Felonies or the nature of my criminal offense I merely been charged or convicted for). And so treated differently from others similarly situated, intentionally and without rational basis. And so as a class of one.

After filing a grievance concerning discrimination of the DMV program (and raising the nature of

[†] In reference to Exhibit-A: it consist of a 3 page set: Page 1 is the DMV denial by ORC YANNONI; Page 2 is the final stage of the DMV grievance heard/answered by both the superintendent and ORC. Page 3 is a letter sent to the chief of program of the matter.

* Accordingly, I am not a member of the prisoners' UNION project nor do I wish to be a member of such, therefore, no contract making is necessary via this claim as I'm a class of one, in or situated amongst many.

of Crime" issue as - one of the two - basis I was denied the program), ORC YANNON issues a second "denial document" without me initiating (again) the DMV Application procedure. Therefore, why did she produce a 2nd document of denial of said program? She did so after discovery of a grievance I filed concerning methods and excuses used to deny inmates (such as myself) the DMV. training program and DMV phone answering/clerical job. She did so - create second or third denial document without warning nor notice - in order to file it superceding/replac[ing] the other initial "denial documents" that denied me the DMV based on "Nature of Crime" discrimination. Furthermore, Not only didn't the grievance Dep. retment here at the Greene, Cf. assisted in the/this Discrimination cover-up by not (or refusing to) following the Grievance Directive that says all grievances concerning discrimination are to go (by-pass Grievance Committee hearings) straight to the Superintendent for Consideration, but said grievance was ignored as to its true complaint. - wherefore, the document (see exhibit B) is reduced to the revealing of the mere 24 month excuse for denial of the program when in reality it's the illegal off the record process of filing of denials based on "nature of the crime". All to which also/further create a denying of - equally situated - inmates the ~~right~~ interest right to be given the DMV. program!

The Denial of the right, my right to the DMV. Job constituted both Job discrimination and a denial of equal protection. It also deprived me of my right to due process (correct and proper Application Review) (also due to my situation, the 24 month denial excuse should not apply to me). And due to my Financial burden (I get no help from home while other inmates get both financial help and food packages and are financial stable for participation in the Commissary Store Buy Program) I suffer a form of hardship in violation of the 8th Amend. U.S. Const. Called Unusual punishment by the deliberate barring of me from the DMV. program. - Therefore, In spite of my personal claims of abuse via DMV. ~~App~~ Application Reviewer, I claim that the DMV program itself is operating in Racism (and/or discrimination - see above. where by in violation of the 14th Amend U.S. Const. And thus forth I request both injunction against it (as well as Declaratory Relief). And I request that punitive damages be awarded me in the sum of \$50,000.00. (which shall include an award for pain & suffer and a payment of funds Equivalent to the DMV ^{Job} pay every 2 weeks as if I work there spanning over the days I was denied the job til now, and over the span of the completion/ finalizing of this claim).

PART TWO OF Relief REQUESTED

Injunction;

A. My Reasoning behind the Relief Requested Concerning the DMV/DOCCS's Participant of Institutional Racism/Institutional Discrimination;

Many years ago I was a member of (and or an actor of) a very powerful underground prison organization. Their strength consist of individual faith and political determination but the central foundational base of their power came from a very large Number of Unionized professionals consisting of Doctors, Lawyers, Businessmen, Bankers, College Professors, Judges, etc. Whom attached/enjoyed themselves to the inmate cause/prisoner's cause. I'm no longer with this group. For their strength, constitutes the substance of serious Hazardous power it not simply dangers to the security of the prison population. A concern but "somewhat" grown nearer to over the years. For now I am simply "a class of one", taking my obtained knowledge teachings of the past and moving forward. — However, as a former member or participant of this organization I - in the 1940s - fought together with those in movement for the abolishing of indeterminate sentence laws and the abolishment of Parole (including the Parole Board). So to make a long story short, the bottom line is, I just don't do the Parole thing nor the Parole Board thing. My only Reason for attending the July 2019 Parole Board was merely for 2 concerns: (1) I've never been to a Parole Board conference before and wanted to see just how they conduct actual parole hearings; and (2) I am in the midst of various court cases to which some form of Tele-communication via satellite or other form will be used and I needed so sort of visual insight as to how it was done. But as for my next scheduled appearance (7/26/21) before the parole board, I simply will not appear but instead will refuse attendance there. And all subsequent summons or call to appear before them. The Bottom line - in my political beliefs - is, that the parole Board process is nothing more than a Violation to my (and of the) 4th 5th 6th and 14th Amend of the United States Constitution. of the four Amendments mention, its a very serious violation of the 4th to which if I were to be released I would never (nor will I ever) contract nor sign to any agreement for government to enter my home whenever they want (and the other stipulations of conditional release, hah! / they got to be Joking !?!). Therefore, parole is not nor was it ever an option for me. And if they send their Parole Bd. decision every time I don't appear, it won't make any difference, because I'll probably won't even open the envelope to read it as I toss it into the nearby garbage can.*

* Therefore, I say this to say that in reality and or according to my conventional practice surrounding the parole Board issues, there should be no reason why I should be denied the DMV Program based on some alleged appearance before an approaching ~~parole board~~.

* Accordingly, it is important to know that every time you appear before a parole Board maintaining innocent as I maintain any and all innocent the parole Bd. automatically put it you via denying your release. ~~None the less~~ Nevertheless, whether I open the envelope or not it does not stop any decision to send me home (release me) or not release me.

(N)

B. Monetary Relief

parole board. Therefore, I request An Injunction against the process used that determines that an inmate having 24 months* to the/ to a parole Bd. Appearance, be denied the DMV program. And if not for all inmates, then a particularized process be designed specifically for me to be hired to work at the DMV program. I request both temporary Injunction until finalizing of this suit and a full injunction thereafter for purposes of Preventing the use of "Nature of Crime" to determine Job eligibility at the DMV, And other forms of Listed Racism and Discrimination.

I further request that I Not be transferred out of this facility until the finalizing of This DMV ORC Yannon Claim and as the issues of discrimination are remedied. Whereby implementing both a temporary injunction against any transfer as well.

Def. No. 4:

I also request that ORC Yannon be sued for ^{punitive} damages of \$88,000.00 for her illegal role in the denying/hiring for the DMV. And other roles she played in the deprivation of my constitutional right 5th, 8th and 14th Amend. U.S. Const. However, If ORC Yannon Reverse her decision denying me the DMV Program "and" she herself submit a granting of my application to attend (Be placed in) the DMV Program within 90 Days after she has been served with Process of this Claim, then only then will I consider the leanancy of a out of court settlement ONLY after I've actually been placed in and actually worked for the DMV at least completing the 16 month training program DMV provides.

"Because I am not so sure that Offender Rehabilitation Counselors (ORC) are actual Government bodies as agencies (and if they are how are they able to provide ^{inmates} ~~the~~ with Counsel representation and on how is it we are deemed to be clients of theirs?" Therefore, Injunction (both Temporary & permanent) much - as it is I ask/request - consist of any and or ORC personnel not be in any capacity of Representation to me for me Nor shall they be allowed Ad Litem As they often attempts to go about doing. For to do so also creates a severe potential of conflict of interest."

Nevertheless, I deem compensatory damages be awarded me in the sum of \$57,000.00 whereby bringing this claim to sue both individually (ORC Yannon), and collectively. And in both individual and personal Capacity.

Part III Relief Requested

Def. No. 3.

C. As the result of Lt Sullivan's Violations of my Constitutional Right, Various actions he took can be seen as or is considered within the scope of his employment therefore my Requested Relief is suit against Sullivan via Pendent matter Jurisdiction as he did

* The DMV has a 16 month training process before being hired to work the DMV Job program. Therefore, even that Time span of 16 month training does not interfere with a 24 month hold of a inmate at the parole Bd.

+ All said TRO and Injunction must include the prevention of any and all retaliation and or any like worse interference with these claims and civil rights cases. It is also important to understand that as an inmate (especially not represented by counsel) I ~~will~~ will not undergo nor enter into contract while meeting with attorneys of defendants. Any thing I propose or enter in will only be in writing before the court itself and clearly stated entirely by me.

Commit both Intentional tort, and Constitutional tort to the sum of 50 thousand dollars (\$50,000.00) a liability upon him but indemnified by the state. This does not include relief sought for punitive damages I seek against Sullivan under the 8th Amend U.S. Const. And for his cruel & unusual punishment of ordering me returned back to an at-risk COVID-19 Double Bunk cell to double bunk with another at a time the epidemic was at an all-time high. And see my Due process Appeal of hearing conducted by Sullivan Attached herein as an exhibit.

Def. No. 5

The Doctrine of Respondent Superior shall apply via Pendant matter Jurisdiction to which Whomsoever's responsibility was it to properly and fully enforce and assure it be carried out concerning COVID-19 double bunk restrictions, shall be held negligently liable of both intentional torts, and constitutional torts for the total sum of \$100,000.00 or \$35,000.00 coupled with the immediate removal from his employment at DOCS.

Wherefore, all defendants known and unknown who participated in any and all wrongful conduct concerning this matter shall be allowed to be sued both in their personal capacity and in their official capacity where it rightfully applies.

And a TRO shall be - as it is I request - issued along with a temporary injunction both restraining the DOCS and Greene, C.F. staff from denying me the DMV Training program and enforcing upon Greene, C.F. staff to Freeze/stop/and/or prevent any and all transfers out of the Greene, C.F. until finalizing of this suit. And to which time they (Greene C.F. staff and DMV) shall hire me to work there at the Greene, C.F. Compound DMV program.

C.F.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

The Greene, C.F.

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

If yes, which claim(s)? *I covered some of my claims, such as:*

1. *The Down Light Issue. That grievance was closed/ended by the area sergeant at the time. a Sgt. Dragilio*

2. *The Double Book grievance was covered to my ad of yet knowledge but apparently not granted or resolution not adhered to.*

3. *The DMV grievance refused to hear my or decide on my discrimination complaint but only decided on it via way of policy (I initially applied for DMV last year then again in Feb. 2020)*

4. *The due process issue was exhausted by way of Disciplinary appeal*

P.S. I did not waive no /any Statute of Limitations Relieving timely response to all my grievances.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

*At the Greene C.F. Compound
J.C. office*

2. What did you claim in your grievance?

See exhibits attached hereto

3. What was the result, if any?

all of them denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

*There is a heavy back log
But nonetheless I wait not any timely
response*

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

*Some issues of this suit are
unremediable issues*

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*The grievance process here is basically
ineffective in remedying
The high degree of staff "I don't care" attitude*

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

N/A

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Smith

Defendant(s) Jaynes

2. Court (if federal court, name the district; if state court, name the county and State)

Northern District of

3. Docket or index number 9:18-cv-1107

4. Name of Judge assigned to your case

Justice Hurd

5. Approximate date of filing lawsuit

don't remember off hand

6. Is the case still pending?

☒ Yes☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

CS 8/10/2020

Signature of Plaintiff

Charles Smith

Printed Name of Plaintiff

Charles Smith

Prison Identification #

9696765

Prison Address

165 Plank Rd (PO Box 51)

Crosbyville

City

MD

State

21051

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address